

**Applicant:** Foore et al.  
**Application No.:** 10/767,016

**Amendments to Drawings:**

The attached sheets of drawings include Figs. 1-28. The original Figs. 1-4 are now amended as Figs. 18-21 respectively and replacement sheets have been enclosed. Figs. 1-17 and 22-28 are new and also enclosed.

**REMARKS/ARGUMENTS**

After the foregoing Amendment, claims 37 and 39-46 are currently pending in this application. Claims 1-36 and 38 are canceled without prejudice. Additionally, the BACKGROUND, SUMMARY OF THE INVENTION, BRIEF DESCRIPTION OF THE DRAWINGS, DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS, ABSTRACT and DRAWINGS have been amended to explicitly include the contents of U.S. Patent Nos. 6,151,332, 6,081,536, 6,388,999, and 6,542,481 because, as indicated in the CROSS REFERENCE TO RELATED APPLICATIONS section, the present application is a continuation claiming priority to these patents and incorporates the contents of those patents by reference. Applicants submit that no new matter has been introduced into the application by these amendments.

**Claim Rejections - 35 USC § 112**

In the Office Action, claims 37, and 39-46 are rejected under 35 USC § 112, first paragraph. Applicants respectfully disagree with based on the following:

Applicants submit that there is support in the specification, as amended, for the claims. While one example is provided for each claim element, there are other examples within the specification.

Regarding claim 37, with respect to “receiving control data indicative of a data rate associated with the data traffic channel over a control channel,” Applicants direct the Examiner’s attention to the amended specification at paragraphs [0187]-[0189], paragraph [0198], and is further illustrated in Figure 14.

Claims 39-46 are dependent upon claim 37, and the Applicants submit that the Examiner rejected claims 39-46 because of its dependency from the rejected claim 37.

Therefore, withdrawal of the 112, first paragraph rejection of claims 37 and 39-46 is respectfully requested.

**Claim Rejections - 35 USC § 103**

Claims 37-46 are rejected under 35 USC 103(a) as being unpatentable over Quick Jr. (US 5,673,259) in view of Richardson et al. (‘Richardson’ hereinafter) US 5,369,637).

The pending claim 37 recites a method for use in a CDMA user device comprising “transmitting data to a base station over a plurality of wireless channels; receiving data from at least one data buffer in the base station over a data traffic channel; receiving control data indicative of a data rate associated with the data traffic channel over a control channel; wherein the CDMA user device is dynamically assigned additional data traffic channels for receiving data based on an

urgency factor, wherein the urgency factor is based of data present in the data buffer.”

The Examiner states on page 4 of the Office Action that “Quick further discloses a searcher reservation scheme which uses a priority assignment algorithm based on type...and amount of traffic in the queues (buffer)...wherein device receiving data traffic on at least one “Dedicated channel” (see Abstract, col. 9, lines 50 through col. 10, lines 1-4).” Quick Jr. at col. 9 line 50 to col. 10 lines 1-4 discloses:

“Thus, the user 202 must obtain a searcher assignment before the transceiver 206B will receive data packets from the user 202. As a result, because each system user does not have its own permanently assigned and unique searcher, each user need not have its own personal searcher, thereby reducing the number of searchers 210 required at each cell site 108. There need only be sufficient searchers 210 to handle the anticipated user load on the system, which is a function of the anticipated maximum number of total data packet users that will attempt to simultaneously send data packet transmissions. If this maximum number of users is exceeded, i.e., all channel(s) for communicating data packets are busy, any user that receives a busy signal will be placed in a queue to be assigned a free searcher. The user 202 does not have to place a request for the free searcher each time it has data to send. Rather, the searcher reservation scheme of the present invention will leave the free searcher assigned to the user 202 between data packets sent by user 202. The searcher reservation scheme of the present invention, which uses a priority assignment algorithm to handle outstanding requests from users to reserve a searcher, will be described in detail below.”

The searcher reservation scheme of Quick Jr. is used for handling requests from users to reserve a searcher, which is not the same as the urgency factor of the pending claims. The pending claims recites “urgency factor indicative of the urgency of the data traffic to be transmitted from the at least one data buffer in the base station,” which Quick Jr. fails to teach or suggest.

According to Quick Jr. the term “urgency factor” refers to urgency for a mobile to receive a user ID. In order for this urgency to be satisfied, Quick Jr., requires a search element which refers to a sliding correlator receiver that continually scans a time domain window in search of a particular user’s information signal, (see col. 8 lines 4-6). A searcher is assigned to search for a user specific long code only when the user initiates a data transmission session, (see col. 8 lines 24-30). The user must obtain a searcher assignment before the transceiver will receive data packets from the user...as a result, the searcher reservation scheme will leave a free searcher assigned to the user between data packets sent by the user, (see col. 9 lines 50-67). Quick Jr. discloses “searcher reservation scheme,” which is not the same as the limitation of the pending claims citing “urgency factor is based of data present in the data buffer.” Therefore, Quick Jr. fails to teach, disclose, or suggest the limitations of the claim 37.

Further, the Examiner, on page 5 of the Office Action, states that Richardson discloses “a control channel carrying control data indicative of assigned data rate

(see col. 3, lines 1-17, figure 2).” As seen in Figure 4 of Richardson and at col. 3, the system of Richardson is for information signals and relates to a TDMA signal transmission system. The pending claim recites a method for use in a CDMA user device. Therefore, Richardson fails to teach the pending claims. Richardson also fails to meet the deficiencies of Quick Jr.

Claims 37-46 are dependent upon claim 37, and the Applicants believe these claims are allowable over the cited references of record for the same reasons provided above.

Based on the arguments presented above, withdrawal of the 103(a) rejection of claims 37 and 39-46 is respectfully requested.

### **Conclusion**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephonic interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicants respectfully submit that the present application is in condition for allowance and a notice to that effect is respectfully requested.

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Respectfully submitted,

Foore et al.

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Enclosure